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DIGEST OF MARYLAND WATER POLLUTION CONTROL LEGISLATION

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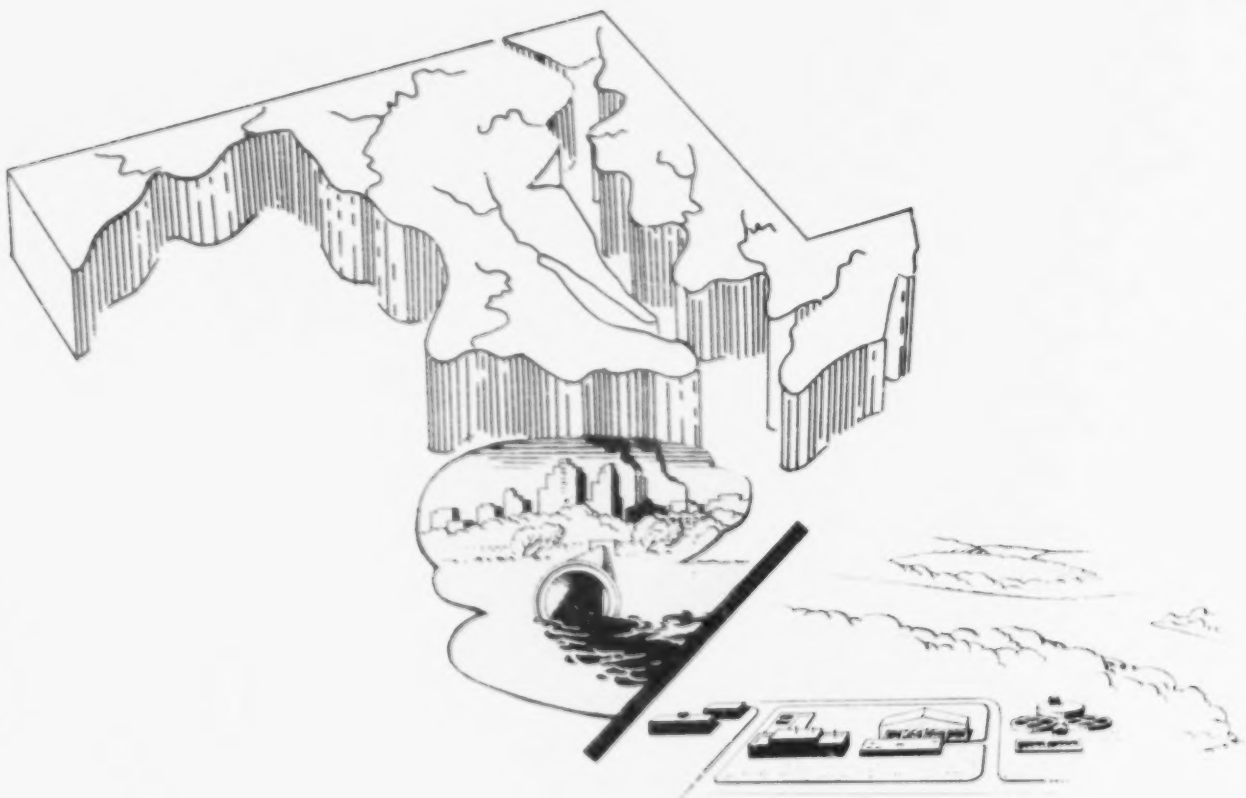

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

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DIGEST OF MARYLAND WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

Both the Water Pollution Control Commission and the State Board of Health have functions relating to the abatement of water pollution. The Commission is authorized to investigate and recommend ways of eliminating pollution from the waters of the State, coordinate and stimulate the activities of and assist State agencies enforcing water pollution laws or concerned with water pollution, recommend standards for waste effluents discharged into the waters of the State and enforce the laws relating to the abatement of pollution of State waters (1956 Cum. Supp., Art. 66C, sec. 36).[1/] The Board has general supervision and control over the waters of the State insofar as their sanitary and physical condition affect the public health or comfort (Art. 43, sec. 366).

The term "Pollution" is defined as the discharge into the waters of the State of any liquid, gaseous or solid substance which may create a nuisance therein or render such waters unclean or noxious so as to be detrimental to the propagation, cultivation or conservation of animals, aquatic life, or unsuitable with reasonable treatment, for use as present or possible future sources of public water supply or unsuitable for commercial, industrial, agricultural, recreational or other reasonable uses (Laws of Maryland, 1957, Ch. 691, to be added to Annotated Code of Maryland (1951) as Art. 66C, sec. 34).

The term "Waters of the State' includes both surface and underground waters within the State or subject to its jurisdiction including that portion of the Atlantic Ocean and its tributaries within the State, the Chesapeake Bay and its estuaries and all ponds, lakes, rivers and streams (Ibid).

1/ Citations in this digest refer to the Annotated Code of Maryland (1951 ed.) and the 1956 Cumulative Supplement thereto, unless otherwise noted.

The State Board of Health is designated by statute as the Water Pollution Control agency in the State for the purposes of Public Law 660, 84th Congress (Laws of Maryland, 1957, Ch. 32, to be added to Annotated Code of Maryland (1951), as Art. 43, sec. 577).

The 1957 Legislature has authorized the creation of a State debt in the amount of $5,000,000 to be used to supplement grants made to municipalities under the Federal Pollution Control Act for the construction of sewage treatment works. The combined State and Federal grants are limited to 40 percent of the total cost of the project (Laws of Maryland, 1957, Ch. 741).

II. ADMINISTRATIVE ORGANIZATION

A. Water Pollution Control Commission

1. Composition and organization

The Commission is composed of seven members, namely, a representative of the State Department of Health, the Chairman of the Board of Natural Resources, the Director of the Game and Inland Fish Commission, the Director of the Department of Research and Education, and three members appointed by the Governor. The Governor designates one of the appointed members to serve as Chairman. The Commission makes its own rules, regulations and procedures. It holds quarterly meetings, but the Chairman or three members may call special meetings by delivering written notice thereof to each member. Four members of the Commission constitute a quorum (Art. 66C, sec. 35). The Commission appoints a Director, a person with executive ability and experience in the field of water pollution control (Art. 66C, sec. 37).

2. Powers and duties

a) Setting water quality and effluent standards

The Commission is authorized to establish such reasonable water quality standards, keeping in mind actual or potential public use, as

are necessary. It is also authorized to recommend standards for sewage or waste effluents (1956 Cum. Supp., Art. 66C, sec. 36).

b) Enforcement

The Commission may issue special orders directing anyone causing pollution to secure the abatement or prevention thereof. If such results are not secured within the specified time, the Commission may further direct such person to install such designated system, treatment plant structure, etc., as is practicable and available for abating or preventing such pollution. Such orders may be entered only after proper hearing with at least 60 days' notice to the person affected. Such special orders do not become effective until 60 days after the service thereof on the party affected (Ibid).

Persons aggrieved by any rule, regulation or order of the Commission may file a sworn petition with the Commission asking for a hearing on the matter. The Commission thereupon is required to fix a time and place for the hearing and notify the petitioner. At the hearing the Chairman or any member of the Commission may administer oaths to witnesses and also may issue summons for witnesses. Persons aggrieved by any rule, regulation or order of the Commission may appeal to the Circuit Court by petition filed with the Clerk of the Court. The filing of the petition with the Court operates to suspend the rule, regulation or order complained of. The Court hears the matter de novo and may approve, set aside or modify the rule, regulation or order. Either party may appeal the Court's decision to the Court of Appeals as in civil cases (Art. 66C, sec. 41).

It is unlawful for anyone to discharge or permit to be discharged into any of the waters any waste or polluting substance of any kind in violation of any rule, regulation, or order of the Commission (Art. 66C, sec. 39).

Anyone found violating any rule, regulation or order of the Commission is guilty of a misdemeanor (Art. 66C, sec. 42).

c) Conduct of studies, investigations and research

The Commission is authorized to supplement and expand existing technical water pollution data (1956 Cum. Supp., Art. 66C, sec. 36).

d) Cooperation with other public and private agencies

The Commission is authorized to cooperate with authorities of other States and the Federal government concerning the control, regulation, or correction of the pollution of any interstate waters and to make recommendations relating thereto, to the proper State agencies (1956 Cum. Supp., Art. 66C, sec. 36).

e) Administrative powers

The Commission is authorized to make rules and regulations necessary to carry out the provisions of the Act. Before finally adopting such rules and regulations, the Commission is required to give at least 30 days' notice, informing all parties who may be interested therein that it will hear such parties to receive suggestions. (Ibid).

The Commission is also authorized to enter upon private or public property to inspect conditions relating to pollution of State waters. Various departments and agencies of the State are required to furnish the Commission with records it may request (1956 Cum. Supp., Art. 66C, sec. 36; Art. 66C, sec. 38).

3. Exemptions from Operation of Act

The Washington Suburban Sanitary Commission is not required to spend more than $250,000 in any calendar year for the elimination or control of pollution (Art. 66C, sec. 44).

4. Preservation of existing rights and remedies

The Act does not modify or restrict the jurisdiction of the State Board of Health set forth in Article 43 of the Code (Art. 66C, sec. 43).

5. Severability clause

The Act contains a severability clause (Art. 66C, sec. 45).

B. State Board of Health

1. Composition and organization

The Board is composed of eight members, as follows: A civil engineer, a certified pharmacist, a dentist, and three physicians, all appointed by the Governor with the advice and consent of the Senate. The remaining members are the Baltimore Commissioner of Health and the Director of Health, who is appointed by the Board. If the Director of Health, who must be a physician, is appointed from among the members of the Board, then the Governor appoints an additional member to serve on the Board. The Director acts as Chairman and Executive Officer of the Board. The Board meets quarterly, and at such other times as it may appoint, and a majority of the members constitutes a quorum for the transaction of business. It elects one of its members as President and adopts rules and regulations for its operation (Art. 43, secs. 1, 4).

2. Powers and duties

a) Issuance of permits and review of plans and specifications

A permit from the Board must be secured by anyone before installing or materially altering any system of water supply, sewerage or refuse disposal for public use. Before a permit is issued, plans and specifications for the project must be approved by the Board. After completion of the work, a certified copy of the plans in full, showing the

work as built, must be filed with the Board for permanent record (Art. 43, sec. 372).

b) Enforcement

When the Board finds that any water supply, sewerage system or refuse disposal works is a menace to health or is creating a nuisance, it can order a correction in the system by a certain time (Art. 43, sec. 370). When the Board finds that the waters of the State are being or liable to become polluted because of no system or a partial system of public water supply, sewerage or refuse disposal, in any county, municipality or locality, it can order the installation of a new system or completion of an existing system within a specified time (Art. 43, sec. 371). In the case of industrial establishments, when there is actual or potential menace to public health, it may issue an order for the abatement of the pollution or to make such alterations in the method of disposing of the waste as deemed necessary to protect the public health, naming a date for compliance with the order (Art. 43, sec. 375). Whenever a system of water supply or sewerage, serving the public, is directly available to any property upon which there exists a spring, well, cesspool, privy, sink drain or private sewage disposal plant, which is or may become prejudicial to health, the Board may order that any of these be abandoned and left in such a way that it cannot be again used nor become injurious to health and that such property to be connected with the water supply or sewerage system (Art. 43, sec. 377). When the Board finds that the water or ice for public use, or the method of waste disposal from any public or private plant or system is or is likely to become dangerous or prejudicial to health, it may order that the source of water or ice supply be closed, or the point of sewage discharge, or method of disposal of sewage or refuse, abandoned, or

it may order that works or devices be installed or measures instituted to remedy the existing conditions (Art. 43, sec. 376).

When the Board finds that any water supply, sewerage system, or refuse disposal works, on account of incompetent supervision or inefficient operation, is not being operated satisfactorily, is creating a nuisance, or is a menace to health, it can issue an order to the person having charge of the system or plant, to secure improved operating results by a specified time. Failing such improvement, the Board may order the person having charge of the system or plant, to appoint, and pay the salary of, a competent person, to be approved by the Board, to operate such system or plant, so as to secure the results demanded by the Board (Art. 43, sec. 369).

The State, or other public body upon which an order of the Board is served, must raise funds necessary to comply with such order. Funds to carry out the order are limited to 5% of the taxable base of the community. This sum can be in addition to all outstanding bonded indebtedness regardless of any limit permitted by law. These funds may not be used for any other purpose than for carrying out the order of the Board, and cannot be expended by the agencies mentioned herein for the purpose stated above unless approved by the Board (Laws of Maryland, 1957, Ch. 33, to be added to the Annotated Code of Maryland (1951) as Art. 43, sec.373).

Anyone aggrieved by any order or regulation of the Board may appeal to the Circuit Court of any county or to the Supreme Bench of Baltimore City. Either party to the appeal action, after the judgment of the Court, may appeal to the Court of Appeals of Maryland (Art. 43, sec. 382).

Anyone failing to comply with an order of the Board, or if appealed to the Court, after affirmance by the Court, may be fined from $10 to $500, with an extra fine of from $5 to $50 per day for each day beyond the time limit that said order is not complied with (Art. 43, sec. 383).

c) Conduct of studies, investigations and research

The Board may conduct experiments relating to the purification of water and the treatment of sewage or refuse (Art. 43, sec. 367).

d) Cooperation with other public and private agencies

The Board, when requested, is authorized to consult with and advise counties, municipalities, and persons, as to the most appropriate source of water supply, and the best method of assuring its purity, or as to the best method of disposing of drainage, sewage or refuse, with reference to the existing and future needs of all who may be affected thereby. The Board may also consult with companies and individuals whose sewage pollute the waters of the State (Art. 43, sec. 367).

e) Administrative powers

The Board is authorized and empowered to make and enforce rules and regulations, issue permits and orders, and enter public and private property for the purpose of inspection (Art. 43, secs. 369-380).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for anyone to knowingly and willfully poison or in any way contaminate the waters of any well, or other source of water supply, used or usable for drinking or domestic purposes (Art. 27, sec. 547).

It is unlawful to cast from any vessel any ballast, ashes, earth, soil, or oyster shells into Chesapeake Bay above Sandy Point, in the waters of Herring Bay, or in any river, creek or harbor within the State below high water mark. This provision does not apply to the improvement of harbors nor does it affect any existing act of the Assembly relating to the construction of wharves or to the rights of riparian proprietors (Art. 27, sec. 567).

It is unlawful to place any dead animal, part of the carcass of any dead animal, any decayed or filthy animal, or vegetable matter into any stream, well, or other source from which water or ice is taken for drinking or domestic purposes. It is also unlawful to allow any sewage or other offensive matter from any privy, cesspool, slaughterhouse or factory to flow into such waters (Art 27, sec. 569).

It is unlawful for anyone to discharge oil in any manner into the waters of the State from any vessel, unless in case of unavoidable accident or emergency imperiling life or property (Art. 66C, sec. 40).

IV. INTERSTATE COMPACTS

Maryland is a party to the Potomac River Basin Compact, relating to the control and abatement of pollution of the rivers and streams in the Potomac River Basin (Art. 43, sec. 385).